

# Radiological Health Program

## X-RAY

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### Guidance on the Retention of X-ray Films Re-issued December 1, 2004

The Virginia Department of Health (VDH), Radiological Health Program had previously issued guidance for X-ray film retention based on an opinion of the Attorney General dated November 2, 1978 and applied only to State facilities. The opinion advised facilities, medical and dental for five (5) years before disposing of them. In the case of children, keep those files for five (5) years beyond the child's eighteenth (18<sup>th</sup>) birthday. For facilities other than State owned facilities, VDH has advised other facilities to seek guidance from their legal counsel regarding X-ray film retention.

The VDH is now aware of specific state and federal laws that address X-ray record retention. Public agencies should refer to the Code of Virginia §42.1-79.1 Retention and disposition of medical records.

*The medical records of all persons not under a disability shall be retained by all public agencies acting as custodians of medical records for ten years following the last date of treatment or contact. Such agencies shall retain the medical records of minors and persons under a disability for a minimum of five years following the age of majority or the removal of the disability, or ten years following the last date of treatment or contact, whichever comes later. Such agencies shall retain the medical records of deceased persons for a minimum of five years following the date of death.*

This section of the state code is assigned to the State Library. For further information public agencies should consult with the Library of Virginia's Records Management and Imaging Services Division and obtain a copy of the Records Retention and Disposition Schedule: General Schedule No. 111. In some cases X-ray records are retained for only five years; otherwise, refer to the Code of Virginia §42.1-79.1.

Medical facilities that provide mammography services must also comply with the federal Mammography Quality Standards Act (MQSA) of 1994, as amended, and standards for mammogram retention is addressed in 21 CFR Part 900.12 (c) 4

- (i) *Shall (except as provided in paragraph (c) (4)(ii) of this section) maintain mammography films and reports in a permanent medical record of the patient for a period of not less than 5 years, or not less than 10 years if no additional mammograms of the patient are performed at the facility, or a longer period if mandated by State or local law; and*
- (ii) *Shall upon request by, or on behalf of, the patient, permanently or temporarily transfer the original mammograms and copies of the patient's reports to medical institution, or to a physician or health care provider of the patient, or to the patient directly;*
- (iii) *Any fee charged to the patients for providing the services in paragraph (c) (4)(ii) of this section shall not exceed the documented costs associated with this service.*

The Virginia Department of Labor and Industry's OSHA regulations also require employees to retain certain medical records including X-ray films. Refer to: 16 VAC 25-80-10 Employee medical records. *Each employee medical record shall be preserved and maintained for at least the duration of employment plus 30 years, except that health insurance claims records maintained separately from the employer's medical program and its records need not be retained for any specified period.*

Regulatory Authority: 12VAC5-480-8450.

Disclaimer: This guidance does not represent a comprehensive listing of all laws and regulations addressing X-ray or medical record retention for all situations, and is not a substitute for competent legal advice.